

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

YVONNE L. TINES JONES,

Plaintiff,

v.

NORMAN Y. MINETA,

Secretary,

U.S. DEPARTMENT OF

TRANSPORTATION,

Defendant.

Civil Action No. 05-10082-EFH

DEFENDANT'S MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendant respectfully moves this Court to dismiss Counts I and III of the Complaint in the above-captioned matter. As set forth more fully in the accompanying Memorandum of Law, the government states that plaintiff has failed to state a claim upon which relief can be granted.

Wherefore, the government respectfully requests that this Court dismiss Counts I and III of the Complaint in this matter with prejudice.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Eugenia M. Carris
Eugenia M. Carris
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Dated: May 4, 2005

CERTIFICATE OF SERVICE

This is to certify that a true copy of the Motion to Dismiss was served upon plaintiff's counsel of record, Anthony W. Neal, Esq., 434 Massachusetts Avenue, Suite 401, Boston, MA 02118 by way of electronic filing or by first class mail on this 4th day of May, 2005.

/s/ Eugenia M. Carris
Eugenia M. Carris
Assistant U.S. Attorney

LOCAL RULE 7.1(A)(2) CERTIFICATION

The undersigned counsel states that she left a voice mail for plaintiff's counsel on May 4, 2005 in an effort to comply with Local Rule 7.1(A)(2).

/s/ Eugenia M. Carris
Eugenia M. Carris
Assistant United States Attorney